

Shaun R. Thompson
Disciplinary Counsel
P.O. Box 1099
Helena, MT 59624-1099
Tele.: (406) 442-1648
Office of Disciplinary Counsel

FILED

FEB 25 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

BEFORE THE COMMISSION ON PRACTICE OF THE
SUPREME COURT OF THE STATE OF MONTANA

UR10-0087

IN THE MATTER OF ROY W. JOHNSON, JR.,)
An Attorney at Law,) Supreme Court Cause No.
Respondent.) ODC File No. 08-117
COMPLAINT

By request of a Review Panel of the Commission on Practice, the Office of Disciplinary Counsel for the State of Montana ("ODC"), hereby charges Roy W. Johnson, Jr. with professional misconduct as follows:

General Allegations

1. Roy W. Johnson, Jr., hereinafter referred to as Respondent, was admitted to the practice of law in the State of Montana in 1979, at which time he took the oath required for admission, wherein he agreed to abide by the Rules of Professional Conduct, the Disciplinary Rules adopted by the Supreme Court, and the highest standards of honesty, justice and morality, including but not limited to, those outlined in parts 3 and 4 of Chapter 61, Title 37, Montana Code Annotated.

2. The Montana Supreme Court has approved and adopted the Montana Rules of Professional Conduct (“MRPC”), governing the ethical conduct of attorneys licensed to practice in the State of Montana, which Rules were in effect at all times mentioned in this Complaint.

Count One

3. ODC realleges and incorporates paragraphs 1 through 2 of the General Allegations as if fully restated in this Count One.

4. On or about February 21, 2008, Stephanie Reynolds ("Reynolds") retained Respondent to handle her divorce. Reynolds paid Respondent a retainer of \$1,400.00.

5. On February 22, 2008, Respondent filed a Petition for Dissolution and a Proposed Interim and Final Parenting Plan. The case was captioned *In re the Marriage of Reynolds*, Montana Thirteenth Judicial District Court, Yellowstone County, and Cause No. DR 08-0185. A Summons and Economic Restraining Order was issued by the Clerk.

6. On or about April 23, 2008, Respondent hired GN Account Services (“GN”) to make service of process on Reynolds’ husband, Lynn Reynolds. GN was unable to make service on Lynn Reynolds. GN returned the service documents to Respondent. Respondent’s stepdaughter, Rebecca Reichert (“Reichert”), served Lynn Reynolds on May 23, 2008. Reichert signed an Affidavit of Service, but Respondent did not file it.

7. In May 2008, Reynolds discharged Respondent and requested her file and a refund. Respondent ceased work on the case but did not take measures to withdraw as counsel of record. Reynolds proceeded to represent herself *pro se*.

8. Since Respondent did not file the Affidavit of Service, Reynolds's obtained her husband's signature on an Acknowledgment of Service, which was filed on September 26, 2008.

9. On November 7, 2008, a Decree of Dissolution of Marriage was filed.

10. In violation of Rule 1.1, MRPC, Respondent failed to provide Reynolds with competent representation.

11. In violation of Rule 1.3, MRPC, Respondent failed to act with reasonable diligence and promptness in representing Reynolds.

12. In violation of Rule 3.2, MRPC, Respondent failed to make reasonable efforts to expedite litigation consistent with the interests of his client.

Count Two

13. ODC realleges and incorporates paragraphs 1 through 2 of the General Allegations and paragraph 4 of Count One as if fully restated in this Count Two.

14. In violation of Rule 1.5, MRPC, Respondent failed to communicate in writing the scope of the representation and the basis or rate of the fee and expenses for which Reynolds would be responsible for, before or within a reasonable time after commencing the representation.

Count Three

15. ODC realleges and incorporates paragraphs 1 through 2 of the General Allegations and paragraphs 4 through 9 of Count One as if fully restated in this Count Three.

16. Respondent did not provide Reynolds her file as requested.

17. On or about February 25, 2009, Respondent refunded \$1,200.00 to Reynolds.

18. In violation of Rule 1.16, MRPC, Respondent failed to withdraw as counsel of record after he was discharged.

19. In violation of Rule 1.16, MRPC, Respondent, upon termination of representation, failed to provide Reynolds her file as requested and/or failed to take steps to the extent reasonably practical to protect Reynolds interests and/or failed to timely refund unearned fees.

Count Four

20. ODC realleges and incorporates paragraphs 1 through 2 of the General Allegations and paragraphs 4 through 9 of Count One as if fully restated in this Count Four.

21. In a letter to Respondent dated September 22, 2008, ODC requested that Respondent provide ODC a supplemental response to additional information received from Reynolds. ODC requested that Respondent respond on or before October 6, 2008. The letter was not returned. Respondent did not respond.

22. ODC sent a second letter to Respondent on October 16, 2008 via certified mail, return receipt requested. This letter requested that Respondent provide a response to the within 10 days of the date of the letter. Kelly Weaver signed the return receipt card on October 17, 2008, which ODC received on October 20, 2008. Again, no response was submitted.

23. Respondent's conduct, as described herein, constitutes a violation of 8.1(b), MRPC.

24. Respondent's failure to promptly and fully respond to inquiries from Disciplinary Counsel is, in accordance with Rule 8A(6), RLDE (2002), a ground for discipline.

WHEREFORE, the Office of Disciplinary Counsel prays:

1. That a Citation be issued to the Respondent, to which shall be attached a copy of the complaint, requiring Respondent, within twenty (20) days after service thereof, to file a written answer to the complaint;


2. That a formal hearing be had on the allegations of this complaint before an Adjudicatory Panel of the Commission;

3. That the Adjudicatory Panel of the Commission make a report of its findings and recommendations after a formal hearing to the Montana Supreme Court, and, in the event the

1 Adjudicatory Panel finds the facts warrant disciplinary action and recommends discipline, that
2 the Commission also recommend the nature and extent of appropriate disciplinary action, and,

3 4. For such other and further relief is deemed necessary and proper.

4 DATED this 24th day of February, 2010.

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7 Shaun R. Thompson
8 Disciplinary Counsel
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2 Disciplinary Counsel
3 P.O. Box 1099
4 Helena, Montana 59624-1009
5 (406) 442-1648

6 Office of Disciplinary Counsel

7 BEFORE THE COMMISSION ON PRACTICE OF THE
8 SUPREME COURT OF THE STATE OF MONTANA

9 * * * * *

PR10-0087

10 IN THE MATTER OF ROY W. JOHNSON, JR.,) Supreme Court Cause No.
11 An Attorney at Law,) ODC File No. 08-117
12 Respondent.) **CITATION TO APPEAR IN ANSWER TO**
13) **COMPLAINT OF THE OFFICE OF**
14) **DISCIPLINARY COUNSEL**

15 TO: Roy W. Johnson, Jr., Respondent, Greetings:

16 YOU ARE HEREBY NOTIFIED that the Office of Disciplinary Counsel for the State of
17 Montana has filed with the Supreme Court of the State of Montana its Formal Complaint against
18 you pursuant to Rule 12 of the Rules for Lawyer Disciplinary Enforcement (2002), a copy of
19 which Complaint is attached hereto.

20 YOU ARE HEREBY COMMANDED to make and file with the Clerk of this Court your
21 written answer to said Complaint within twenty (20) days from and after service upon you of this
22 Citation and a copy of said Complaint as provided by Rule 18, RLDE (2002).

23 Any procedural motions, for example, a Motion for Extension of Time within which to
24 Answer the Complaint, filed by you or by your Counsel prior to the filing of the Findings,
25 Conclusions, and Recommendations of the Commission on Practice, shall be addressed to and

1 filed with Shauna Ryan, Commission on Practice, P.O. Box 203002, Helena, MT 59620-3002,
2 and served upon the Office of Disciplinary Counsel, P.O. Box 1099, Helena, MT 59624-1099,
3 as provided by Rule 18, RLDE (2002).

4 In the event of your failure to file an answer within the time prescribed, you will be held
5 and deemed in default as provided by Rule 12B(2), RLDE (2002).

6 WITNESS my hand and seal of this Court this ____ day of _____, 2010.

7
8
9 (COURT SEAL)

ED SMITH,
Clerk of the Supreme Court
Of the State of Montana